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July 9, 2019

By ECF

Honorable Robert D. Drain
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4140

Sears Holdings Corp. et al. v. Lampert et al., Adversary Proceeding No. 19-8250 (RDD);
In re Sears Holdings Corp., Case No. 18-23538 (RDD)

Dear Judge Drain:

We represent plaintiffs in this adversary proceeding, and I write on behalf of all parties to request that the pretrial conference, originally scheduled for June 20, 2019 and subsequently adjourned without date at the Court's direction, be further adjourned pending a decision by the proposed Liquidating Trust Board on the selection of primary litigation counsel and the filing of an amended complaint (or a determination by plaintiffs not to amend).

On May 28, 2019, Debtors filed a Second Amended Joint Chapter 11 Plan [Dkt. No. 4041], pursuant to which, if the Plan is confirmed and upon its effective date, all of the Debtors' assets, including the causes of action asserted in this adversary proceeding, would be transferred to a Liquidating Trust.

As the Debtors' counsel advised the Court at the hearing on June 20, 2019, the Debtors and the Creditors' Committee have agreed to amend the Plan to provide, among other things, that the Liquidating Trust Board will consist of three representatives selected by the Creditors' Committee and the two members of the Debtors' Restructuring Subcommittee. The

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amendment provides that the Liquidation Trust Board after its formation, but before Plan confirmation, will select a Trustee and primary litigation counsel for the anticipated Liquidating Trust.

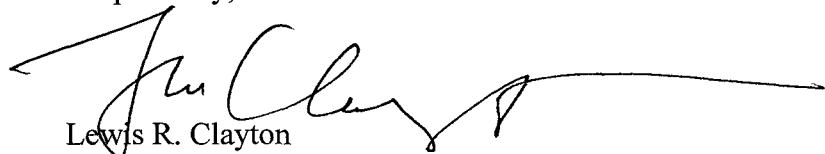
Counsel for plaintiffs have discussed with counsel for the Creditors' Committee potential amendments of the adversary complaint to add additional factual allegations, additional causes of action, and/or additional parties. We do not anticipate based upon these discussions that an amended complaint would add claims based upon transactions not at issue in the current complaint though, as noted, it may add additional claims and defendants with respect to the transactions already at issue. Counsel for plaintiffs and for the Creditors' Committee agree that the best interests of plaintiffs' estates and their creditors would be served by deferring the filing of an amended complaint until after the Liquidation Trust Board has selected a Trustee and primary litigation counsel.

In light of the anticipated filing of an amended complaint that may include additional claims and defendants, the parties respectfully request that (1) the date for defendants to move or answer in response to the operative complaint and (2) the pretrial conference both be adjourned without date until after plaintiffs have filed the amended complaint (or until after plaintiffs notify the Court and the defendants that they do not intend to amend the complaint before any motion practice). Once the amended complaint is filed (or plaintiffs state that they do not intend to amend before motion practice), the parties will promptly confer on a schedule for defendants' responses to the complaint and for a pretrial conference. They will then communicate to the Court regarding such schedule. A proposed Order providing for this adjournment and process is enclosed for the Court's consideration. Except as set forth herein, all parties reserve all rights.

Plaintiffs also wish to advise the Court that discovery is underway. Plaintiffs and defendants have served requests for documents; the parties have agreed on a deadline to exchange initial disclosures; and the parties anticipate serving additional party and nonparty discovery. The parties' respective positions about scheduling are set forth in the joint Rule 26(f) submission [Dkt. No. 34].

We thank the Court for its attention to this matter.

Respectfully,



Lewis R. Clayton

Enclosure:

Cc (w/encl.): All counsel (by ECF)